

VZCZCXYZ0010
OO RUEHWEB

DE RUEHC #1172 1632146
ZNR UUUUU ZZH
O 122122Z JUN 09
FM SECSTATE WASHDC
TO USINT HAVANA IMMEDIATE 0000

UNCLAS STATE 061172

SIPDIS

E.O. 12958: N/A
TAGS: [KTIP](#) [ELAB](#) [KCRM](#) [KPAO](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [CU](#)
SUBJECT: CUBA -- 2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHE

REF: (A) STATE 59732 (B) STATE 005577

11. This is an action cable; see paras 5 through 7 and 10.

12. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

13. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Cuba of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Cuba and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/precede the Secretary's release at 10:00 am EDT on June 16.

14. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

15. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Cuba of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

16. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about

which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of Cuba,s country narrative in the 2009 TIP Report:

Cuba (TIER 3)

Cuba is principally a source of women and children trafficked within the country for the purpose of commercial sexual exploitation. Some Cuban children are reportedly pushed into prostitution by their families, exchanging sex for money, food, or gifts. Cuban nationals voluntarily migrate illegally to the United States, and there have been reports that some are subjected to forced labor or forced prostitution by their smugglers. The full scope of trafficking within Cuba is difficult to gauge due to the closed nature of the government and sparse non-governmental or independent reporting. State-run hotel workers, travel employees, cab drivers, and police steer some tourists to women and children in prostitution) including trafficking victims) though this appears to be on the decline.

The Government of Cuba does not fully comply with the minimum standards for the elimination of trafficking, and is not making significant efforts to do so. It is difficult to assess the true extent of trafficking in Cuba. Observation and independent reports suggest that the Cuban government is taking steps to address the problem of child sex tourism, though this information cannot be verified. The government will not release information about anti-trafficking activities it may have engaged in during the past year, viewing U.S. attempts to engage officials on trafficking issues as politically motivated.

Recommendations for Cuba: Acknowledge that child sex trafficking in Cuba is a problem; provide greater legal protections and assistance for victims; develop procedures to identify possible trafficking victims among vulnerable populations; increase anti-trafficking training for law enforcement; and, take greater steps to prevent the trafficking of children in prostitution.

Prosecution

Cuba prohibits most forms of trafficking activity through various provisions of its penal code. While prostitution for persons over the age of 16 is legal, Title III, Section First Article 310 provides that using children under 16 in prostitution, corruption, pornographic acts or other illegal conduct may be punishable by from seven to 30 years' imprisonment or death. Article 316, on the selling of minors, bans internal and transnational trafficking in children under the age of 16 for forced labor, prostitution, trade in organs, and pornography, and prescribes penalties of between four and 20 years, imprisonment. Articles 302 and 87 prohibit inducing an adult into prostitution and prescribe penalties of up to 20 years, imprisonment. All these penalties are sufficiently stringent, and commensurate with those prescribed for other grave crimes, such as rape. Trafficking of adults for forced labor, however, is not prohibited under Cuban law. No official data relating to Cuban investigations, prosecutions, and convictions of trafficking offenders in 2008 or any other year has been made public. An NGO in Cuba reports that a number of Cubans were convicted for human trafficking in the past year, but the majority of the crimes appear to be alien smuggling without an element of exploitation. The government continued to assist the U.S. Coast Guard with investigating potential

human trafficking cases within alien smuggling groups, particularly cases of illegal migrants forced to work for smugglers or drug gangs. Corruption remained a problem throughout the government. Reports continued of individual police officers accepting bribes and profiting from the commercial sex trade. No investigations or prosecutions of public officials have been confirmed.

Protection

Efforts by the Government of Cuba to aid trafficking victims were not officially reported over the last year, but appeared weak. Evidence suggests that victims are punished for unlawful acts committed as a direct result of their being trafficked. Although adult prostitution is legal in Cuba, police occasionally rounded up women and children in Cuba, sex trade and charged them with vague crimes such as &dangerousness without attempting to identify trafficking victims among the detained persons. Adolescents found in prostitution were sent to either juvenile detention facilities or work camps emphasizing politicized rehabilitation. Personnel in most detention and rehabilitation centers which may house trafficking victims cannot provide adequate care, and conditions at some of these detention centers appear to be harsh. Trafficking victims who are not detained may access the limited services available through Cuba, s health system. Two sexual abuse treatment centers run by the government with assistance from an NGO which provide advanced care and counseling to child sexual abuse victims and child witnesses are available to trafficking victims. Trained law enforcement and court personnel record videos of interviews and testimony, practices which could reduce children, s court appearances in trafficking cases if they were to be so used. The centers, staff also provided specialized victim protection training to treatment professionals, police, prosecutors, and judges. The government did not show evidence of employing formal procedures to identify trafficking victims among vulnerable populations, such as people exploited in prostitution. Cuba claims to have a policy of encouraging victims of any crimes to participate in investigations and prosecutions, though there were no victims of trafficking known to be so encouraged during the reporting period. Cuba did not provide legal alternatives to the removal of foreign victims to countries where they face hardship or retribution. NGOs report that Cuban missions in foreign countries routinely refuse assistance to Cuban women who state they were forced to travel overseas and coerced into prostitution.

Prevention

The government does not acknowledge or condemn human trafficking as a problem in Cuba. No known information campaigns to prevent sex or labor trafficking took place during the reporting period. The government has taken steps to reduce demand for commercial sex acts by prosecuting child sex offenders. U.S. citizens and other foreign nationals are currently serving lengthy sentences in Cuba for sexual exploitation of a minor; in the one new case this year, a Cuban-American was arrested in March 2008 and charged with corruption of minors, an offense usually involving sexual exploitation of children under 14. This case has not yet gone to trial. The government collects information on identified child sexual predators; immigration officials at ports of entry use this information to deny them entry to Cuba. Cuba has not ratified the 2000 UN TIP Protocol.

19. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000

Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in

persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1. Why was Cuba again given a ranking of Tier 3?

¶A. The Government of Cuba does not fully comply with the minimum standards for the elimination of trafficking, and is not making significant efforts to do so. It is difficult to assess the true extent of trafficking in Cuba, however, as the government will not share information with the USG about its law enforcement or other anti-trafficking efforts.

Q2. What is the nature of the trafficking problem in Cuba?

¶A. Cuba is principally a source of women and children trafficked within the country for the purpose of commercial sexual exploitation. Some Cuban children are reportedly pushed into prostitution by their families, exchanging sex for money, food, or gifts. Cuban nationals voluntarily migrate illegally to the United States, and there have been reports that some are subjected to forced labor or forced prostitution by their smugglers. The full scope of trafficking within Cuba is difficult to gauge due to the closed nature of the government and sparse non-governmental or independent reporting. State-run hotel workers, travel employees, cab drivers, and police steer some tourists to women and children in prostitution) including trafficking victims) though this appears to be on the decline.

Q3. What, if anything, could Cuba do to improve its anti-trafficking efforts?

¶A. To advance its efforts to combat human trafficking, it is

recommended that the GOC acknowledge that child sex trafficking in Cuba is a problem; provide greater legal protections and assistance for victims; develop procedures to identify possible trafficking victims among vulnerable populations such as women and children in prostitution; increase anti-trafficking training for law enforcement; and take additional steps to prevent the trafficking of children in prostitution.

¶12. The Department appreciates posts, assistance with the preceding action requests.

CLINTON